

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LUCIA HEFFERNAN,

Plaintiff,

v.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS AND UNINCORPORATED
ASSOCIATES IDENTIFIED ON SCHEDULE
“A”,

Case No. 24-cv-02404

Hon. Judge Franklin U. Valderrama

Hon. Magistrate Judge Heather K. McShain

DEFENDANTS BELLENINI AND LOREALWEAR’S

ANSWER TO PLAINTIFF’S COMPLAINT

Defendants BELLENINI and LOREALWEAR (collectively “Defendants”), by and through their undersigned counsel, answer Plaintiff LUCIA HEFFERNAN (“Plaintiff”)’s Complaint as follows:

INTRODUCTION

1. Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it. Plaintiff’s Exhibit speaks for itself.
2. Defendants admit to operating e-commerce stores, otherwise denied. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.
3. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.
4. Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

5. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

JURISDICTION AND VENUE

6. Admitted as to original subject matter jurisdiction pursuant to the provisions of 28 U.S.C. § 1331, otherwise denied.

7. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

8. Defendants admit to operating internet stores, otherwise denied. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

BACKGROUND

Plaintiff and the Copyrighted Works

9. Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

10. Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

11. Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it. Plaintiff's Exhibit speaks for itself.

12. Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

Defendants' Unlawful Conduct

13. Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

14. Defendants admit to operating internet stores, otherwise denied. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

15. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

16. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it. Plaintiff's Exhibit speaks for itself

17. Admit that Plaintiff has not licensed Defendants to use her copyrighted work. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

18. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

19. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

20. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

21. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

22. Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

23. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

24. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

COUNT I

Copyright Infringement (17 U.S.C. §§ 106 and 501)

25. Defendants hereby repeat and incorporate by reference their responses to the allegations set forth in the preceding paragraphs.

26. Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

27. Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

28. Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it. Plaintiff's Exhibit speaks for itself.

29. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

30. Admit that Plaintiff has not licensed Defendants the Lucia Heffernan Works. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

31. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

32. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

33. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

34. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

35. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

36. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

37. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

COUNT II

False Designation of Origin (15 U.S.C §§ 1125 (a))

38. Defendants hereby repeat and incorporate by reference their responses to the allegations set forth in the preceding paragraphs.

39. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

40. Denied with respect to Defendants. With respect to all other parties and allegations, Defendants lack knowledge or information sufficient to form a belief about the truth of this allegation and therefore deny it.

41. Defendants hereby repeat and incorporate by reference their responses to the allegations set forth in the preceding paragraphs.

42. Defendants hereby repeat and incorporate by reference their responses to the allegations set forth in the preceding paragraphs.

PRAYER FOR RELIEF

Defendants deny that Plaintiff is entitled to damages, treble or punitive, equitable relief, attorneys' fees, costs, pre-judgement interest or to any relief whatsoever arising from any claim or set of allegations set forth in the Complaint, and on that basis deny Plaintiff's Prayer for Relief in its entirety.

GENERAL DENIAL

Defendants deny each and every allegation in the Complaint to the extent not specifically admitted herein.

AFFIRMATIVE AND OTHER DEFENSES

Subject to the responses above, Defendants allege and assert the following defenses in response to the allegations in the Complaint, undertaking the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated herein. In addition to the affirmative defenses described below, subject to its responses above, Defendants specifically reserve all rights to allege additional affirmative defenses that become known through the course of discovery or further investigation in this action.

FIRST DEFENSE

(Failure to State a Claim)

The Complaint, and each purported cause of action alleged therein, fails to state facts sufficient to constitute a claim against Defendants upon which relief can be granted.

SECOND DEFENSE

(Failure to Mitigate)

The claims made in the Complaint are barred, in whole or in part, because of Plaintiff's failure to mitigate the damages, if any exist, by, without limitation, failing to act to enforce any purported rights in the asserted copyrights prior to filing the lawsuit including, without limitation, by sending notice to Defendants of Plaintiff's claims or initiating any dispute resolution procedures administered by the e-commerce platforms directly.

THIRD DEFENSE

(Invalidity)

Plaintiff's asserted copyrights and registrations are invalid, and Plaintiff is not entitled to any copyrights in any such asserted marks.

FOURTH DEFENSE

(No Willful Infringement)

Plaintiff's claims are barred, in whole or in part, because any alleged infringement by Defendants occurred innocently, and not willfully.

FIFTH DEFENSE

(Fair Use: Copyright)

The claim for copyright infringement is barred in whole or in part on the grounds that Defendants' alleged use of Plaintiff's purported copyrights is a fair use of the work under Section 107 of the Copyright Act (17 U.S.C. § 107).

SIXTH DEFENSE

(Limited Damages)

The prayer for statutory damages due to copyright infringement is limited under 17 U.S.C. § 504(c)(2) on the grounds that Defendants were not aware and had no reason to believe that Defendants' alleged acts constituted an infringement of copyright

SEVENTH DEFENSE

(No Statutory Damages)

Plaintiff is not entitled to statutory damages pursuant to 17 U.S.C. § 412 because Defendants' act of alleged copyright infringement commenced before the registration date(s) of Plaintiff's purported copyrighted material.

EIGHTH DEFENSE

(Equitable Defenses)

On information and belief, all or some of Plaintiff's claims for relief are barred, in whole or in part, by the doctrines of equitable estoppel and/or other equitable remedies.

NINTH DEFENSE

(Lack of Personal Jurisdiction)

Defendants deny that this Court has personal jurisdiction over them and object to this Court's exercise of such jurisdiction over them.

PRAYER FOR RELIEF

WHEREFORE, Defendants respectfully requests that the Court enter judgment in its favor and against Plaintiff, and grant the following relief:

- A. Dismissing, with prejudice, the Complaint in its entirety against Defendants;
- B. Denying all relief that Plaintiff seeks in the Complaint;
- C. Finding this case to be exceptional under 15 U.S.C. § 1117(a) and awarding Defendants' costs and attorney's fees;
- D. Awarding Defendants their costs, expenses, disbursements, and attorneys' fees incurred in connection with this action; and
- E. Awarding Defendants any other relief the Court deems just and equitable.

Dated: August 7, 2024

Respectfully Submitted,

By: /s/ Hua Chen

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***Attorney for Defendants BELLENINI and
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